

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PAUL J. SMITH,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 06-432-GMS
)	
WARDEN RICK KEARNEY, DEPUTY)	
WARDEN MIKE DELOY, and)	
COMMISSIONER STANLEY TAYLOR,)	
)	
Defendants.)	

ORDER

WHEREAS, Paul J. Smith ("Smith"), was a prisoner incarcerated at the Sussex Correctional Institute ("SCI"), Georgetown, Delaware, at the time he filed this 42 U.S.C. § 1983 lawsuit, along with an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915;

WHEREAS, on July 20, 2006, the court entered an order and granted Smith leave to proceed *in forma pauperis*, assessing a filing fee of \$350, requiring Smith to submit his prison trust account statement within 30 days (D.I. 4);

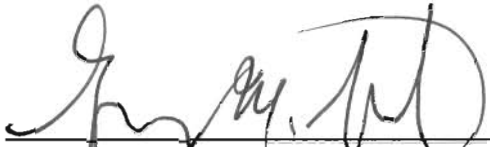
WHEREAS, in Civ. No. 05-139-GMS, the court received correspondence from Smith dated August 23, 2006, that indicated he had been released from prison and that provided the court with his home address upon release;

WHEREAS, under the Prison Litigation Reform Act, release does not eliminate the obligation of payment of a filing fee that could and should have been met from the trust account while imprisonment continued. *Robbins v. Switzer*, 104 F.3d 895, 899 (7th Cir. 1997); *see also Drayer v. Attorney General*, Nos. 03-2517, 03-2518, 81 Fed.Appx. 429 (3d. Cir. 2003).

THEREFORE, at Wilmington this 29th day of September, 2006, IT IS HEREBY

ORDERED that within thirty days from the date of this order, Smith shall either pay the filing fee owed (\$350.00) **or** submit a new standard form application to proceed without prepayment of fees and affidavit so that the court may determine whether he is still eligible to proceed *in forma pauperis*.

NOTE: Failure to timely comply with this order shall result in dismissal of this case without prejudice.


UNITED STATES DISTRICT JUDGE

